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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 004068

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E.O. 12958: DECL: 12/13/2017
TAGS: [PGOV](#) [PREL](#) [IZ](#)
SUBJECT: UN SRSG POSSIBLY GAINS BREAKTHROUGH AGREEMENT ON
ARTICLE 140

REF: A. BAGHDAD 3910

[1](#)B. 12/13/2007 ISG SVTS
[1](#)C. 12/13/2007 BLAKEMAN-PEARCE EMAIL

Classified By: Senior Advisor David Pearce for Reasons 1.4 (b) and (d)

[1](#)1. (C) Summary: United Nations Special Representative of the
Secretary General Staffan de Mistura told Senior

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Adviser December 13 that he had "good news" on an Article 140
way forward. De Mistura said that President Talabani,
Kurdistan Regional Government Prime Minister Nechirvan
Barzani and Deputy Prime Minister Barham Saleh agreed to a
process aimed at neutralizing the crisis over the referendum
delay and inviting UN technical assistance, starting in
January. On December 12, de Mistura had told us that Prime
Minister Maliki and Vice Presidents Hashimi and Abdel Mehdi
were already on board with the concept of UN involvement as
the way forward. On December 14, de Mistura sent letters to
the 3 1 and an informal note to the Kurdish leadership with
methodological ideas on UN assistance. The UN plans to issue
a press release on December 15. Kurdish leaders sought
reassurances of U.S. support to the UN role which, following
consultation with Washington (refs), Senior Adviser provided.
End Summary.

UN Gains 3 1 Agreement

[1](#)2. (C) De Mistura told us December 12 that he spoke again
with President Talabani, Vice Presidents Hashimi and Abdel
Mehdi and PM Maliki and all told him they were on board for
his proposal. He had given the same message to all, with a
slight variation for President Talabani. His message noted
that the constitutionally mandated referendum deadline is
December 31; a referendum is not possible in this timeframe
and therefore, we have a crisis. The KRG will not let the
deadline pass without making an issue of it. The KRG doesn't
want UN involvement. The UN would not give legitimacy to any
referendum at this time. The idea of using the 1957 census
will not work; using the December 2005 election results would
be a better way to determine the internal border. Technical
assistance by the UN could be helpful. Barzani may accept
this; if that worked, it could avoid a crisis. But there
appears to be no strategy on facing the December 31 deadline.
De Mistura asked them if they would agree to a "technical"
delay in implementation coupled with a request to the UN to
assist for six months, starting January 1, in developing a
process for a way forward. With President Talabani, he noted
that KRG PM Nechirvan Barzani had sent a cautious signal of
willingness to consider UN technical assistance.

Kurdish Leaders Agree on a Process

¶3. (C) De Mistura said he met 12/13 with President Talabani, Kurdistan Regional Government (KRG) Prime Minister Nechirvan Barzani and Deputy Prime Minister Barham Saleh. He reviewed with them the potential strategy of asking the UN to provide technical assistance. He also provided scenarios of what could happen if no formula were determined to deal with the passing of the December 31 referendum deadline. De Mistura told them they would lose control of managing the 140 issue. There could be emotional and possibly violent Kurdish reaction that could snowball in unpredictable ways. It could cause a crisis in the Maliki government because of the Kurdish need to stand fast on the issue. Turkey could overreact if reaction in Kirkuk got out of hand. Iran could reiterate its unfortunate suggestion at the Istanbul ministerial to put the issue in the deep freeze for three years.

¶4. (C) According to de Mistura, the Kurdish leadership agreed on the following:

-- de Mistura will send a letter to the 31 on the afternoon of December 14, referencing their discussion and noting agreement on the urgent need to initiate a process to accelerate implementation of Article 140. The letter would note that "in view of the technical and logistical difficulty of holding a referendum prior to 31 December 2007, as mandated in the Constitution, and given the corresponding need for a technical delay, you indicated that you share my view that the next best step would be to initiate, in January 2008, and within six months, a process of facilitating the implementation of the Article with technical assistance of the United Nations (UNAMI/Baghdad)." (Note: full text of draft letter as received 12/13 was e-mailed to NEA/I. End Note)

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-- De Mistura would provide the Kurdish leadership an informal note on December 14 on the potential UN methodology, to include using the December 2005 election results, moving from addressing the easiest disputed areas to the hardest (to build confidence) and using technical expertise with electoral mapping as a baseline for proposed internal boundary adjustments.

-- UNAMI would issue a press release outlining this situation. (Note: the draft press release echoes almost exactly the language in the letter. End Note)

-- KRG PM Nechirvan Barzani will react by issuing a statement voicing unhappiness with the handling of the 140 issue to date and vowing that the KRG will continue to pursue the issue. However, his statement will also note willingness to accept UN technical advice starting in January to proceed expeditiously on developing a process for implementing Article 140, within six months.

¶5. (C) De Mistura conveyed that Barzani would like to hear from the U.S. before midday on December 14 that the U.S. felt comfortable and supported this approach. UNAMI political director Andrew Gilmour also noted the UN would appreciate U.S. suggestions for technical experts.

Kurdish Leaders Seek U.S. Assurances

¶6. (C) The afternoon of December 14, de Mistura confirmed to Senior Adviser that he had sent the letters to President Talabani, Prime Minister Maliki and Vice Presidents Hashimi and Abdel Mahdi, as well as the methodology note to the KRG leadership.

17. (C) KRG Minister for Extra-Regional Affairs and KRG representative to the Article 140 high committee Mohammed Ihsan requested an urgent meeting with Senior Adviser on December 14. Ihsan told Senior adviser that he expected a serious crisis with PM Maliki; he is not doing enough to move key issues forward such as Article 140, hydrocarbons and constitutional review. The Kurds had toppled PM Jaafari over his lack of commitment to this issue. Senior Adviser replied that everyone has frustrations, but if we all wait for the perfect government we will never do anything. So it's important to work with what you've got.

18. (C) Ihsan said the Kurds needed a guarantee that the UN proposal would result in resolution; otherwise it would be back to square one in six months. KRG President Masoud Barzani was particularly concerned about this. Senior Adviser noted that this was the plan that was briefed to, and accepted, by the Kurdish leadership. There is no other plan to deal with the passing of the deadline, he said, and no one can guarantee the results. What can be guaranteed is that there will be a serious effort; the UN is pledging an active role and the US supports this. There is a plan now for defusing the immediate crisis and putting a process in place for addressing the issues, whereas before that had been neither. Senior Adviser told Ihsan the proposal should be looked at positively. A negative was being turned into a positive. The Kurdish leadership, and Ihsan in particular as the point man on the issue, should do everything possible to ensure the success of this approach.

19. (C) DPM Barham Saleh spoke with Senior Adviser after the meeting with Ihsan. Saleh welcomed US support for the approach that had been agreed, but said it would be useful to have something in writing, noting US support for the UN approach, and in particular the methodology outlined in the UN's informal note to the Kurdish leadership. Saleh said he believed the new approach outlined by the UN was "more balanced" and "moves us away from the predicament we were in".

Comment

110. (C) There has been a lot of worry and uncertainty here and in the north that Kurdish displeasure with the passing of the Article 140 deadline could trigger rising tensions and possibly a government crisis. The de Mistura device of a "technical delay" has defused the immediate end-of-year issue. More importantly, though, the Iraqi political leadership appears to have actually agreed on how to handle a difficult and contentious matter that is central to achieving a national political accommodation and sustainable stability. True, the agreement is on procedure, not substance. And the

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issues are enormously complicated, and generate strong feelings on all sides. So, much can go wrong. Nevertheless, putting an agreed process in place is a start on seriously addressing the matter, and that is no small thing. In our travels and discussions with various stakeholders on this, the views have been far apart. But one thing they all agreed on was that they welcomed both US attention to the issue and, now that the Kurds have shifted, the UN technical role.
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